THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 22204 OF 2001

DATED: 24-08-2005

Between

M/s. Sri Ramachandra Modern Rice Mill,
Huzur Nagar, Nalgonda District, rep., by
its partner Sri Keetha Venkateswarlu.

..... PETITIONER

And

1. Commercial Tax Officer, Kodad,
Nalgonda District and others.

..... RESPONDENTS

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 22204 OF 2001

ORDER: (per Sri B. Sudershan Reddy, J)

The petitioner prays for issuance of a writ of Mandamus declaring inclusion of R.D cess in its turnover as contrary to law being in the teeth of scheme of taxation under R.D Cess Act and the Andhra Pradesh General Sales Tax Act, 1957. The petitioner accordingly seeks consequential directions to the respondents to exclude the same from the taxable turnover by setting aside the assessment order dated 04-10-2000 passed by the Commercial Tax Officer and confirmed by the appellate Deputy Commissioner.

This Court having admitted the writ petition did not grant any stay of collection of tax of Rs.31,749/- pursuant to the order dated 04-10-2000 passed by the Commercial Tax Officer. The Commercial Tax Officer declined to exclude the turnover of Rs.13,78,440/- relatable to R.D cess.

It is brought to our notice by the learned Special Standing Counsel as well as the learned counsel for the petitioner that the Government having reconsidered the entire issue issued orders in G.O. Ms. No. 950 dated 10-09-2003 whereunder

appropriate directions have been issued not to collect the tax on R.D cess and include the same in the turnover. However, no relief was granted in such of those cases where tax has already been paid relatable to R.D cess. In this case, it is not clear whether the respondents have collected the tax of Rs.31,749/- from the petitioner after the filing of this writ petition since this Court did not grant any stay.

In such view of the matter, it would be appropriate to dispose of this writ petition directing the respondents to give effect to G.O. Ms. No. 950 dated 10-09-2003, if the petitioner had not already paid the tax amount of Rs.31,749/-. It is needless to observe that the petitioner would not be entitled to any benefit under the said G.O., if it had already paid the tax. There shall be an order accordingly.

The Writ Petition is accordingly disposed of without any order as to costs.

(B. Sudershan Reddy, J)

24..08..2005

(Ramesh Ranganathan, J)

ks/gj